

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: ~~November 9, 2004~~ **November 23, 2004**

AGENDA ITEM NO.: 5

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Rezoning Request – Wards Ferry Road – R-4, Multi-Family Residential District to B-3, Community Business District (Conditional)**

RECOMMENDATION: Approval of the requested Rezoning.

SUMMARY: Compson Development is requesting to rezone approximately 1.695 acres at 108 Melinda Drive and Wards Ferry Road from R-4, Multi-Family Residential District to B-3, Community Business District (Conditional) to allow commercial access to serve a shopping center in Campbell County. The Planning Commission recommended approval of the rezoning because:

- The petition agrees with the *Comprehensive Plan* which recommends a Regional Commercial use for the area.
- The voluntarily submitted proffers adequately address the impacts of the proposed development.

PRIOR ACTION(S):

October 13, 2004: Planning Division recommended approval of the rezoning.
Planning Commission postponed action on the rezoning.

October 27, 2004: Planning Commission waived the twenty-one (21) day submittal requirement for proffers.
Planning Commission recommended approval (6-0 with 1 member absent) of the rezoning with the following voluntarily submitted proffers:

1. The will be landscaped as follows:
 - a. Along the frontage of Wards Ferry Road between the intersection of Wards Ferry Road and Wards Road and the first entrance into the center, a 20-foot wide landscaped undulating berm 2-3 feet high shall be provided. The buffer shall be planted in a manner similar to that which now exists along Wards Road in front of Logan's and O'Charley's.
 - b. Street trees will be planted 40-feet on center along the property frontage of Wards Ferry Road.
 - c. Landscaped islands containing a shade type tree shall be constructed in the parking lot so that no more than 15 parking spaces are located between islands.
 - d. If permitted by City flood plain regulations, landscaping similar to 1a shall be provided on each side of the main entrance (across from Target).
 - e. A landscaped berm shall be established between the main entrance to the shopping center and the property of Covenant Presbyterian Church.
2. No commercial entrance or other commercial access shall be established onto Melinda Drive. The developer shall grant an access easement over and across the shopping center property to Covenant Presbyterian Church for access to and from Wards Ferry Road. Such easement shall be granted subject to any terms, conditions, covenants or restrictions that are required by the tenants of the shopping center and that are customarily required by retail tenants of regional shopping centers similar to the center proposed for this property. Such easement shall also be subject to the execution of a standard operation and maintenance agreement by the developer and Covenant Presbyterian Church.
3. The developer shall install a new traffic signal on Wards Ferry Road at the proposed shopping center entrance and the existing Wards Crossing (Target) entrance.
4. Should the City of Lynchburg choose to implement a "traffic management plan" in the vicinity of the shopping center in order to minimize "through traffic" and enhance traffic safety in the Vista Acres neighborhood (including but not limited to Melinda Drive, Alta Lane, and Vista Lane), the developer will contribute an amount equal to the amount actually spent by the City of Lynchburg to implement and

construct any traffic calming measures provided by such plan before December 31, 2005. The developer's total contribution hereunder shall not exceed \$50,000.00.

5. The developer agrees to construct a taper and turn lane on the southbound Wards Ferry Road approach into the proposed shopping center main entrance.
6. The developer agrees to lengthen the left turn lane (storage & taper) on the northbound approach to the Wards Ferry and Wards Road intersection.
7. The developer agrees to construct dedicated left-turn lanes on Wards Ferry Road at the proposed main entrance into the shopping center. Said turn lanes will be constructed by modifying the existing lane markings on Wards Ferry Road.
8. All transportation improvements will be the responsibility of the developer and/or its assignees, except as provided herein.
9. The developer will extend the screening wall between the shopping center and the residentially zoned land along Melinda Drive into the City as necessary in order to block the view of the roofs of the shopping center buildings from Melinda Drive to the greatest extent practicable.
10. All stormwater management systems shall be designed and built to address both the quantity and quality of water being discharged from the shopping center property to the standards now in effect in the City of Lynchburg. The developer shall not be required to treat or detain any off-site water draining onto the shopping center property.

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn / 455-3902

Tom Martin / 455-3909

ATTACHMENT(S):

- Ordinance
- PC Report
- PC minutes
- Vicinity Zoning Pattern
- Vicinity Land Use
- Site plan
- Fire / EMS Concerns
- Petition of Opposition
- Speaker Sign Up Sheet

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE CHANGING A CERTAIN AREA FROM R-4, MULTI-FAMILY RESIDENTIAL DISTRICT TO B-3, COMMUNITY BUSINESS DISTRICT (CONDITIONAL).

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG, that in order to promote the public necessity, convenience, general welfare, and good zoning practice that Chapter 35.1 of the Code of the City of Lynchburg, 1981, as amended, be and the same is hereby further amended by adding thereto Section 35.1-76._____, which section shall read as follows:

Section 35.1-76._____. Change of a certain area from R-4, Multi-Family Residential District to B-3, Community Business District (Conditional).

The area embraced within the following boundaries:

Parcel No. 1

Starting at the intersection of the southerly right-of-way of Melinda Drive and the westerly right of way of Wards Ferry Road, Thence with the westerly right-of-way of Wards Ferry Road with a chord of S 20° 09' 40" E, 249.55 feet to the Actual Point of Beginning; Thence continuing with said right-of-way with a curve to the left whose radius is 781.67 feet an arc distance of 36.65 feet (chord = S 30° 41' 23" E, 36.65 feet) to a point; Thence continuing with same with a curve to the left whose radius is 875.27 feet an arc distance of 271.90 feet (chord = S 40° 55' 56" E, 270.81 feet) to a point; Thence continuing with same, S 49° 49' 54" E, 164.39 feet to a point; Thence leaving said right-of-way and with the easterly property line of Shirley K. McIvor, et al (D.B. 323, Pg. 393), S 79° 34' 35" W, 204.77 feet to a point; Thence continuing with same, N 31° 35' 25" W, 259.00 feet to a point; Thence with the easterly property line of English Development Corp. (D.B. 594, Pg. 156), N 25° 45' 25" W, 132.23 feet to a point; Thence with the southerly property line of The Trustee's of Covenant Presbyterian Church (D.B. 332, Pg. 639), N 61° 31' 20" E, 82.80 feet to the Point of Beginning and containing a total of 1.173 Acres excluding 0.119 Acres which lies within the RC District.

Parcel No. 2

Starting at the intersection of the southerly right-of-way of Melinda Drive and the westerly right of way of Wards Ferry Road, Thence with the westerly right-of-way of Wards Ferry Road a chord bearing of S 20° 09' 40" E, 249.55 feet to a point, Thence leaving said right-of-way and with the northerly property line of English Development Corp. (D.B. 631, Pg. 133), S 61° 31' 20" W, 82.80 feet to the Actual Point of Beginning; Thence with the westerly property line of Said English property, S 25° 45' 25" E, 132.23 feet to a point, said point being the northeasterly corner of the property of Shirley K. McIvor, et al (D.B. 323, Pg. 393); Thence with the northerly property line of said McIvor property, S 51° 24' 36" W, 65.27 feet to a point on the City of Lynchburg corporate line; Thence with said corporate line, N 34° 44' 47" W, 171.46 feet to a point on the southerly property line of The Trustee's of Covenant Presbyterian Church (D.B. 332, Pg. 639); Thence with said Church property, S 82° 43' 40" E, 46.04 feet to a point; thence continuing with same, N 61° 31' 20" E, 51.89 feet to the Point of Beginning and containing a total of 0.249 Acres excluding 0.012 Acres which lies within the RC District.

Parcel No. 3

STARTING at the intersection of the southerly right-of-way of Melinda Drive and the westerly right of way of Wards Ferry Road, Thence with the westerly right-of-way of Wards Ferry Road with a curve to the left whose radius is 781.67 feet an arc distance of 150.43 feet (chord = S 16° 29' 22" E, 150.20 feet) to the Actual POINT OF BEGINNING; Thence continuing with the westerly right-of-way of Wards Ferry Road with a curve to the left whose radius is 781.67 feet an arc distance of 100.19 feet (chord = S 25° 40' 28" E, 100.12 feet) to a point, said point being the northerly property line of English Development Corp. (D.B. 631, Pg. 133 & D.B. 594, Pg. 156); Thence with said property line S 61° 31' 20" W, 134.69 feet to a point; thence continuing with same, N 82° 43' 40" W, 46.04 feet to a point; Thence leaving the property of English Development Corp. and with City of Lynchburg Corporate line through the property of The Trustee's of Covenant Presbyterian Church (D.B. 332,

Pg. 639), N 34° 44' 47" W, 2.23 feet to a point; Thence continuing with same, N 19° 29' 28" W, 111.23 feet to a point; Thence with a new rezoning line through the aforesaid Church property, S 82° 43' 40" E, 66.73 feet to a point; Thence continuing with same, N 61° 31' 20" E, 105.66 feet to the Point of Beginning and containing 0.404 Acres.

. . . is hereby changed from R-4, Multi-Family Residential District to B-3, Community Business District (Conditional), subject to the conditions set out herein below which were voluntarily proffered in writing by the owner, namely: English Development Corporation and Covenant Presbyterian Church, to wit:

1. The site will be landscaped as follows:
 - f. Along the frontage of Wards Ferry Road between the intersection of Wards Ferry Road and Wards Road and the first entrance into the center, a 20-foot wide landscaped undulating berm 2-3 feet high shall be provided. The buffer shall be planted in a manner similar to that which now exists along Wards Road in front of Logan's and O'Charley's.
 - g. Street trees will be planted 40-feet on center along the property frontage of Wards Ferry Road.
 - h. Landscaped islands containing a shade type tree shall be constructed in the parking lot so that no more than 15 parking spaces are located between islands.
 - i. If permitted by City flood plain regulations, landscaping similar to 1a shall be provided on each side of the main entrance (across from Target).
 - j. A landscaped berm shall be established between the main entrance to the shopping center and the property of Covenant Presbyterian Church.
2. No commercial entrance or other commercial access shall be established onto Melinda Drive. The developer shall grant an access easement over and across the shopping center property to Covenant Presbyterian Church for access to and from Wards Ferry Road. Such easement shall be granted subject to any terms, conditions, covenants or restrictions that are required by the tenants of the shopping center and that are customarily required by retail tenants of regional shopping centers similar to the center proposed for this property. Such easement shall also be subject to the execution of a standard operation and maintenance agreement by the developer and Covenant Presbyterian Church.
3. The developer shall install a new traffic signal on Wards Ferry Road at the proposed shopping center entrance and the existing Wards Crossing (Target) entrance.
4. Should the City of Lynchburg choose to implement a "traffic management plan" in the vicinity of the shopping center in order to minimize "through traffic" and enhance traffic safety in the Vista Acres neighborhood (including but not limited to Melinda Drive, Alta Lane, and Vista Lane), the developer will contribute an amount equal to the amount actually spent by the City of Lynchburg to implement and construct any traffic calming measures provided by such plan before December 31, 2005. The developer's total contribution hereunder shall not exceed \$50,000.00.
5. The developer agrees to construct a taper and turn lane on the southbound Wards Ferry Road approach into the proposed shopping center main entrance.
6. The developer agrees to lengthen the left turn lane (storage & taper) on the northbound approach to the Wards Ferry and Wards Road intersection.
7. The developer agrees to construct dedicated left-turn lanes on Wards Ferry Road at the proposed main entrance into the shopping center. Said turn lanes will be constructed by modifying the existing lane markings on Wards Ferry Road.
8. All transportation improvements will be the responsibility of the developer and/or its assignees, except as provided herein.
9. The developer will extend the screening wall between the shopping center and the residentially zoned land along Melinda Drive into the City as necessary in order to block the view of the roofs of the shopping center buildings from Melinda Drive to the greatest extent practicable.

10. All stormwater management systems shall be designed and built to address both the quantity and quality of water being discharged from the shopping center property to the standards now in effect in the City of Lynchburg. The developer shall not be required to treat or detain any off-site water draining onto the shopping center property.

And the Director of Community Planning and Development shall forthwith cause the Official Land Use Map and the "Official Zoning Map of Lynchburg, Virginia," referred to in Section 35.1-4 of this chapter to be amended in accordance therewith.

Adopted:

Certified:

Clerk of Council

152L

The Department of Community Planning & Development
City Hall, Lynchburg, VA 24504 434-455-3900

To: Planning Commission
From: Planning Division
Date: October 13, 2004
Re: **REZONING: 108 Melinda Drive and Wards Road**

I. PETITIONER

Compson Development, LC, 1320 Old Chain Bridge Road, Suite 400, McLean, VA 22101
Representatives: Mr. Jerry Falwell, Jr., P.O. Box 542, Forest, VA 24551

II. LOCATION

The subject property is a tract of approximately one and three tenths (1.3) acres located at 108 Melinda Drive, Wards Ferry Road and Wards Road.

Property Owners:

English Development Corporation, 1522 Main Street, Altavista, VA 24517
Covenant Presbyterian Church, 108 Melinda Drive, Lynchburg, VA 24502

III. PURPOSE

The purpose of the petition is to rezone approximately one and three tenths (1.3) acres at 108 Melinda Drive and Wards Road from R-4, Multi-Family Residential District to B-3, Community Business District (Conditional) to allow a commercial access to serve a shopping center in Campbell County.

IV. SUMMARY

- Petition agrees with the Comprehensive Plan, which recommends a Regional Commercial use for the area.

The Planning Division recommends approval of the rezoning petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends “Regional Commercial” and “Resource Conservation” uses for the subject property. “Regional Commercial” uses are defined as retail, restaurant, entertainment, and hotel uses that draw customers from the entire region. **(5.5)** “Resource Conservation” areas have special characteristics that make their preservation in open space particularly important to the City’s environmental health. These areas are intended to be kept as natural as possible so as to stabilize steep slopes, prevent soil erosion, provide for natural absorption areas for urban runoff, moderate climate and to provide wooded areas for wildlife. **(5.2-5.3)**

The subject property is also located in the vicinity of the intersections of Wards Road, and the US Route 460/US Route 29 interchange. This area is listed as a “major gateway” to the City. The City’s gateways serve as the communities’ front door, establishing first impressions and reinforcing images and perceptions of Lynchburg’s quality of life. The Comprehensive Plan states that “if a property in a gateway area is proposed for rezoning, the City will seek proffers that ensure high aesthetic quality of development and that set aside land for gateway features.” **(4.1-4.3)**
2. **Zoning.** The subject property was annexed into the City in 1976. The existing R-4, Multi-Family Residential District and R-C, Conservation District zoning was established in 1978 with the adoption of the current Zoning Ordinance.
3. **Proffers.** The petitioner voluntarily submitted the following proffers with the rezoning application:
 1. The site will be landscaped as follows:
 - a. Along the frontage of Wards Ferry Road between the intersection of Wards Ferry Road and Wards Road and the first entrance into the center, a 20-foot wide landscaped buffer shall be provided. The buffer shall be planted in a manner similar to that which now exists along Wards Road in front of Logan’s Roadhouse and O’Charley’s restaurants.
 - b. Street trees will be planted 40-feet on-center along the property frontage of Wards Ferry Road.

- c. Landscaped islands shall be constructed in the parking lot so that no more than 15 parking spaces are located between islands.
 - d. If permitted by City floodplain regulations, landscaping similar to 1a shall be provided on each side of the main entrance (across from Target).
2. No entrance or other access from the proposed shopping center shall be established onto Melinda Drive.
3. The developer shall install a new traffic signal on Wards Ferry Road at the proposed shopping center entrance and the existing Wards Crossing (Target) entrance.
4. The developer agrees to construct a taper and turn lane on the southbound Wards Ferry Road approach into the shopping center main entrance.
5. If warranted by the Traffic Impact Study, the developer agrees to lengthen the left turn lane (storage and taper) on the northbound approach to the Wards Ferry and Wards Road intersection.
6. The developer agrees to construct dedicated left-turn lanes on Wards Ferry Road at the proposed main and secondary entrances into the shopping center. Said turn lanes will be constructed by modifying the existing lane markings on Wards Ferry Road.
7. All transportation improvements will be the responsibility of the developer and/or its assignees.
4. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the development of the property as proposed.
5. **Previous Actions.** The following items in the immediate area have required City Council approval:
 - On August 10, 2004, the City Council approved the rezoning petition of Little Horse, LLC from I-2, Light Industrial District to B-5, General Business District (Conditional) at 109 Delta Street.
 - On August 10, 2004, the City Council approved the rezoning petition of Little Horse, LLC from I-2, Light Industrial District and B-5, General Business District (Conditional) to B-5, General Business District (Conditional) at 113, 121 & 125 Delta Street.
 - On October 12, 1999, the City Council approved the Conditional Use Permit petition of the Church of Jesus Christ of Latter Day Saints at 110 Melinda Drive to allow the construction of a forty-six (46) space parking area.
 - On January 26, 1999, the City Council approved the Conditional Use Permit petition of Faison/Trammel Crow on Wards Road to allow fill in the flood plain.
 - On January 26, 1999, the City Council approved the rezoning petition of Faison/Trammel Crow from R-3, Two-Family Residential District, R-4, Multi-Family Residential District, R-5, Multi-Family Residential District and B-5, General Business District to B-5, General Business District (Conditional) at the intersections of Wards Road, Wards Ferry Road and Atlanta Avenue.
 - On December 14, 1993, the City Council approved the rezoning petition of Charleston Trading Company, Inc., from I-2, Light Industrial District to B-5, General Business District (Conditional) at 4009-4013 Wards Road.
 - On December 8, 1992, the City Council approved the rezoning petition of George A. and Sue W. Cox from I-2, Light Industrial District to B-5, General Business District (Conditional) at 121 Delta Street.
 - On September 11, 1984, the City Council approved the Conditional Use Permit petition of Covenant Presbyterian Church at 108 Melinda Drive to allow additions to an existing church building.
6. **Site Description.** The subject property is bounded to the north (across Melinda Drive) by multi-family uses, to the east (across Wards Ferry Road) by a large retail use (Wards Crossing Shopping Center), to the south by vacant land (zoned B-5, General Business District and proposed for a parking area) and to the west by an institutional use (Covenant Presbyterian Church) and vacant land (area proposed for the Compson Development shopping center).

7. **Proposed Use of Property.** The purpose of the rezoning is to allow the construction of a commercial access drive to serve a proposed shopping center in Campbell County. The remainder of the property could be used for future commercial development within the City Limits.
8. **Traffic and Parking.** The City's Traffic Engineer is concerned with the impact the proposed development will have on Wards Ferry Road. A traffic study has been requested to identify necessary road improvements needed in order for the project to occur. These road improvements should be the sole responsibility of the developer. At a minimum the following road improvements will be required: A traffic signal at the proposed entrance and the existing entrance to Wards Crossing Shopping Center from Wards Ferry Road, right and left turn lanes. The requested traffic study had not been received at the time this report was written; however, the petitioner has proffered substantial road improvements. The City's Traffic Engineer has reserved further comment until the traffic study is received and reviewed.

Of particular concern to the Planning Division is the potential for the amount of "cut through" traffic on Wards Ferry Road, Melinda Drive and Alta Lane to increase due to the proposed development. The Planning Division recommends that a traffic study be conducted to determine if improvements are needed to these roads or if "traffic calming" techniques should be installed to preserve the neighborhood fabric as is consistent with the *Comprehensive Plan*. Neighborhoods and Housing, Objective 1F, Safety and Security states "Explore design (e.g., traffic calming) and enforcement strategies to ensure safe pedestrian and vehicular traffic." (10.12) Transportation, Objective 1D, Neighborhood Traffic states "Ensure that traffic conditions do not degrade neighborhood quality." (14.7)

9. **Stormwater Management.** A stormwater management plan will be required because disturbed areas will exceed 1,000 square feet. Because the property lies at the City/County boundary line, the City of Lynchburg and Campbell County are conducting a joint review of the project. Based upon population density, the City of Lynchburg is classified by the Environmental Protection Agency (EPA) as a "Phase II" community, which requires stormwater management plans to address both quantity and quality of water being discharged into receiving channels. Phase II communities are also required to map commercial discharge points exceeding thirty-six (36) inches in diameter. Campbell County is not classified as a Phase II community by the EPA and is only required to account for the quantity of stormwater discharged into receiving channels.

According to the petitioner, stormwater management will be addressed in Campbell County. However, the subject property lies at the "headwaters" of Tomahawk Creek and stormwater discharged from the proposed project will ultimately be discharged into a stream flowing through the City limits. Because of the sensitive environmental issues associated with the project, the Campbell County Planning Commission recommended a condition of approval to the Campbell County Board of Supervisors that "The stormwater management system shall be designed and built to address both the quantity and quality of water discharged from the site. Water quality standards shall be those in effect in the City of Lynchburg as of this date (9/27/04) regardless of where the stormwater management system is located." The petitioner has also submitted voluntary proffers in Campbell County that "The stormwater management system shall be designed and built to address both the quantity and quality of water being discharged from the site." At its October 4, meeting the Campbell County Board of Supervisors postponed action on the item, until the rezoning petition is heard in the City.

10. **Impact.** The petition proposes to rezone the property from R-4, Multi-Family Residential District to B-3, Community Business District (Conditional) to allow for a commercial access to serve a proposed shopping center in Campbell County. The site plan submitted by the petitioner indicates that a ten thousand eight hundred (10,800) square foot retail building could be constructed within the City limits.

The Future Land Use Map recommends a "Regional Commercial" use for the subject property and thus the proposed rezoning is in compliance with the *Comprehensive Plan*. The major impacts associated with the proposed development will be traffic, landscaping and stormwater. Traffic impacts along the frontage of the property have been addressed by voluntary proffers submitted by the petitioner. Stormwater management issues will be addressed by voluntary proffers submitted by the petitioner in Campbell County and recommended conditions by the Campbell County Planning Commission to the Campbell County Board of Supervisors. There are standing regulations in the City of Lynchburg to adequately address stormwater management issues. Landscaping concerns have been addressed by the petitioner in the voluntarily submitted proffers. However, the Planning Division suggests that the petitioner clarify the

proffers to state that “shade type” trees will be provided within the landscaped islands within the parking area, and that “landscaped berms” will be constructed along the frontage of the property.

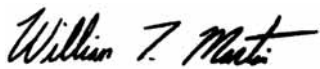
11. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on September 21, 2004. Comments have or will be addressed by the petitioner prior to final site plan approval.
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VI. PLANNING DIVISION RECOMMENDED MOTION(s)

That the Planning Commission waives the twenty-one (21) day submittal requirements for proffers.

Based on the preceding Findings of Fact, the Planning Commission recommends approval of the rezoning of one and three tenths (1.3) acres at 108 Melinda Drive and Wards Road from R-4, Multi-Family Residential District to B-3, Community Business District (Conditional) with the voluntarily submitted proffers.

This matter is respectfully offered for your consideration.



William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Rachel O. Flynn, Director of Community Planning & Development
Mr. Bruce A. McNabb, Director of Public Works
Mr. R. Douglas Dejarnette, Fire Marshal
Mr. J. Lee Newland, Director of Engineering
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Ms. Judith C. Wiegand, Senior Planner
Mr. Arthur L. Tolley, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Mr. Kent White, Environmental Planner
Mr. Jerry Falwell, Jr. Representative

VII. ATTACHMENTS

1. **Vicinity Zoning Pattern**
(see attached map)
2. **Vicinity Proposed Land Use**
(see attached map)
3. **Site Plan**
(see attached site plans)
4. **Petition in Opposition**
(see petition)

MINUTES FROM THE OCTOBER 13 PLANNING COMMISSION MEETING

Petition of Compson Development, LC to rezone approximately 1.3 acres at 108 Melinda Drive and Wards Road from R-4, Multi-Family Residential to B-3, Community Business District (Conditional) to allow for a commercial entrance.

Mr. Martin explained that this petition proposed to rezone approximately 1.3 acres from R-4, Multi-Family Residential District to B-3, Community Business District (Conditional) to allow for commercial entrances to serve a shopping center development in Campbell County, and the construction of a 10,800 square foot retail center within the City Limits. He added that the Comprehensive Plan recommended a Regional Commercial Use for the subject property, which included retail, restaurants, entertainment, and hotel uses that would draw customers from the entire region. He explained that the petition was in compliance with the Comprehensive Plan, but had two main issues associated with the petition as proposed, which were traffic and stormwater. Mr. Martin said the petitioner had submitted a traffic study outlining needed road improvements, including turn lanes and a new traffic signal. He added that the City's Traffic Engineer had reviewed the study and was in agreement with the recommended improvements. He told the Commission that submitted proffers adequately addressed the needed improvements, and the full cost of the improvements would be the responsibility of the developer. Mr. Martin said the petitioner had proffered, and was being required by Campbell County, to address both water quantity and quality for the entire development, and said the City of Lynchburg and Campbell County were conducting a joint review of the project. Mr. Martin noted that since the proffers were received after the 21-day submittal requirement, the Planning Commission would need to waive that time period requirement. He concluded by saying that the Planning Division recommended approval of the rezoning petition.

Mr. Jerry Falwell, Jr., represented Compson Development in their petition. He explained that Compson, a family owned business since 1946, had commercial properties in Richmond, Northern Virginia, and Covington, Virginia. He added that Mr. Tom Comparato, family member, was also in attendance at this meeting. He said this proposed center was approximately 250,000 square feet and would mirror the nearby Wards Crossing Shopping Center. He said some of the proffers offered in Campbell County ensured that the architecture and landscaping would be similar to the shopping center next door.

Mr. Falwell added that the purpose for the rezoning was to improve access into the site as they did not want to create a traffic nightmare by having an access too close to Wards Ferry Road. He said the decision was made to rezone all of the subject property, and added that the Covenant Presbyterian Church would retain ownership of the corner lot. He noted that one of the proffers would eliminate an entrance onto Melinda Drive from the shopping center. Mr. Falwell said he understood that before this meeting church representatives met with City officials and worked out an agreement with the developer stating that if the church ever developed the corner lot they would only access the lot through the Compson Shopping Center with no access onto Melinda Drive.

Mr. Falwell said there had been four or five meetings with neighbors who lived close to this project. He said they had been extremely cooperative, but did have legitimate concerns about a development this size being so close to their homes. He added that the neighbors had looked for ways for this development to work instead of looking for ways to obstruct it. He continued by saying that Mr. Comparato had reciprocated by agreeing to wide buffers, a large number of tree plantings, an eight or ten foot wall between the center and the neighborhood, as well as agreeing that the back of the stores would have the same façade treatment as the front and sides of the structure. Mr. Falwell said the County proffers provided that none of the property would be acquired by the developer. He explained that they had agreed to no commercial development on that strip of property, and it would be R-1. He said if houses were ever built on that strip, they would be similar in size and style to what was there.

Mr. Falwell said stormwater was a big issue, and even though the County did not have quality requirements, the developer had agreed to treat the water quality that flowed off the parking lots. He said the City proffers had recently been revised noting that the main change was that along the frontage of Wards Ferry Road, beginning at the intersection of Wards Ferry Road and Wards Road, and the first entrance to the Center, there would be a twenty (20) foot wide landscape, undulating berm, two to three feet in height. Mr. Falwell explained

that shade trees would be planted in the islands, and there would be no more than 15 parking spaces in any one line.

Mr. Tom Austin, Mattern & Craig, Roanoke, Virginia, addressed the Commission reviewing the proffers. He explained that a series of undulating landscape buffers proposed along Wards Ferry Road starting at the intersection of Wards Ferry and Wards would continue to Melinda Drive. He added that the buffers would be twenty feet wide, two to three feet in height, and planted with vegetation similar to O'Charleys and Logans Road House. He noted that approximately twenty street trees would be added along Wards Ferry Road from the intersection of Wards Road and Wards Ferry Road to Melinda Drive, and would be planted forty foot on center along the south side of Wards Ferry. Mr. Austin said the spacing of islands in the parking lots would not exceed fifteen spaces, and planted with shade trees to meet the City's standard.

Mr. Austin reviewed the proffers concerning traffic in the area, and explained that the traffic study showed that the volume of traffic turning into the center at the main intersection warranted double left turn lanes be constructed. He said the right lane, which was currently dedicated for turning into Wards Crossing, would be dedicated as a through-lane as well as a right-turn lane into Wards Crossing. He added that they had conducted a detailed traffic Impact Study, had submitted that report to Mr. Harter, and had reviewed that report with him. Mr. Austin explained that the portion of stormwater located in the City would be designed to meet the current City standards, and the portion in the County would be designed to meet water quantity and quality issues as outlined in the proffers. He concluded by saying that Mattern & Craig's Traffic Engineer was in attendance at this meeting for more questions.

Mr. Chris Langley, 645 Oakley Avenue, addressed the Commission saying that his company had apartments at 101 Melinda Drive, with Apartments 1-16 facing the side and rear of the proposed development. He said his company did not receive any notice of the neighborhood meetings, but added that perhaps the notices were delivered to the apartment dwellers. Mr. Langley explained that he was in favor of the project, but was opposed to their renter's view of the development, which would be of the dumpsters and loading docks. He added that he liked that the developer proffered green space and asked that more green space be proffered near his apartments. Mr. Langley also asked if the ten-foot wall proposed along the property in Campbell County could be extended past his apartments to shield their residents, and that a screen to shield the rooftop units be installed.

Mr. James C. Curling, 1210 Cedar Hill Drive, represented Covenant Presbyterian Church. Mr. Curling explained that the church sold their property to Compson for the entryway into the proposed shopping center. He continued by noting that when the Church considered the aspects of this project, including the possible traffic situation, they decided that it would be in the best interest of all of the people in Vista Acres for the church to sell Compson the property so the entrance way could be installed across from Target. He added that the Church was also asking that they be allowed to piggy-back on the Center's proposal to be rezoned from R-4 to B-3 Conditional. Mr. Curling said they had worked with Compson Development and Compson had agreed to install an eight feet tall fence between the properties to hide most of the development, plant Leyland Cypress trees along both sides of the proposed fence, and install a berm near the entrance to Wards Ferry Road. He said the Church had been concerned about Proffer #2 as it was currently written, but explained that he and members from the Planning Division and representatives from Compson had agreed on a compromise to allow the Church access to Melinda Drive if the Church ever needed it.

Mr. Martin explained that the Planning Commission had the right to recommend to Council a lesser or greater area for rezoning, and what Mr. Curing was showing and asking for at this meeting was already in the petition. He added that the City was prepared to recommend to the Commission pulling that portion of the rezoning out of the petition if the church insisted on having an access on Melinda Drive. He said if the property were ever developed commercially they would have access onto Melinda Drive, which the City wanted to avoid. However, Mr. Martin explained, Mr. Comparato had agreed to give the Church an easement from the shopping center for access, which was acceptable to the City, as the City would like to see all traffic funneled to the traffic light. He suggested that the proffer include the words "commercial use only", which would ensure that if the property were developed commercially, then the access would be from the shopping center.

Mrs. Judith Mazurkiewicz, 129 Melinda Drive, spoke for a group of neighbors concerning the continued development of the Ward's Road area. She explained to the Commission that a petition signed by approximately 200 citizens noting their concern for traffic issues in the Melinda Drive/Alta Lane area had been included in their packets. She added that cut-through traffic connecting the Vista Acres neighborhood with the Leesville Road area had increased since the Wards Crossing Shopping Center had opened, and the

neighborhood anticipated that traffic would continue to increase with the opening of the proposed shopping center. Mrs. Mazurkiewicz noted that they felt the shopping center would be constructed, so they needed to figure out what to do about the traffic problem before it happened. She said they appreciated the developer's willingness to listen to the concerns of the neighborhood and to offer proffers at the developer's expense, including installing the traffic light across from the Wards Crossing Shopping Center. Mrs. Mazurkiewicz offered suggestions, which were outlined in their petition on how the neighborhood would be willing to work with the developer and the City to develop a positive scenario, such as speed humps or speed tables along Melinda Drive and Alta Lane to slow increased transient flow. She said the Planning Division shared some of the concerns from the neighborhood concerning cut-through traffic, and implored the Planning Commission to take these concerns seriously and use their empowerment to protect their safety and community. Eight people stood in support of Mrs. Mazurkiewicz's request for a show of support from her neighbors.

Mrs. Sherry Blair, 204 Alta Lane, spoke in opposition to the petition. Mrs. Blair explained that she was the office manager at Target, so every day she had to deal with entering and exiting the Wards Road Shopping Center. She added that over the last two years she had seen an increase in traffic at Wards Crossing. She told the Commission that recently on Wards Ferry Road near the shopping center, a school bus dropped off four children, and when the bus pulled out, she counted twenty-one cars behind the school bus heading toward Wards Road and another eleven cars exiting the Target lot trying to get onto Wards Ferry Road. Mrs. Blair said the alternate route exiting from the proposed shopping center forcing people to turn right should be considered, hopefully causing people to find an alternate route around the neighborhood. She asked how the City would profit from this development as no taxes would be received, but they would have to provide the police, fire and EMS for traffic problems that would occur on Wards Ferry Road.

Mr. Bo Blair, 204 Alta Lane, spoke in opposition of the petition. Mr. Blair said the timing of this Planning Commission meeting did not accommodate most of the people in the neighborhood, who were working people. He added his concern with traffic congestion, tax revenue, and water runoff.

Stuart Whitaker, 39 Toddsbury Road, Campbell County, addressed the Planning Commission. Mr. Whittaker explained that the people who were notified of the neighborhood meetings were county residents whose property adjoined the proposed site, so the owners of the apartments on Melinda Drive were not maliciously or knowingly left out of the meetings. He said if traffic increased on Melinda Drive, then there would be more accidents than there already were. He added that in conversations with the Virginia Department of Transportation they were concerned that the streets were maxed out already. Mr. Whittaker pointed out that several items concerning Wards Road and Wards Ferry Road had been answered, but nothing had been answered about the surrounding roads, and asked if the traffic study included the areas around the shopping center, such as Melinda, Alta, and Leesville Road.

Chair Dahlgren said the Commission would be happy to see any information from VDOT concerning the roads.

Mr. Sam Roskelley, 3604 Sherwood Place, spoke in opposition to the petition, explaining that he attended church in this area. Mr. Roskelley said that due to the moratorium in the State banning annexation there would always be competition between Cities and Counties for development, which would lead to urban sprawl. In this situation, he said, the City should take into consideration the fact that there would be more shopping opportunities in the area, but that did not mean there would be more money in Lynchburg to take advantage of that shopping, and there would probably be businesses move from Lynchburg into this shopping center in the County. He added that he did not see why Lynchburg should facilitate Campbell County taking part of our commerce. Mr. Roskelley noted that there were a couple of shopping centers in Lynchburg that had basically been vacated because of the new shopping areas moving further into the outer regions of the City and County. He concluded by saying that he hoped the Commission would consider what should be done to short cut that process and bring those kinds of development dollars into the City for revitalization.

Mr. Falwell gave a rebuttal. He explained that notices for the developer's first neighborhood meeting were mailed to those residents that the County sent notices to, and they were told that included the property owners in the City. He added that a representative of Target's Real Estate Department in Minnesota had responded to their Adjoining Property Owner Notice asking for a copy of the site plan, and did not have any comments. Mr. Falwell commented that the City and County Traffic Engineers had reviewed the study and he understood that they feel good about it. He added that it might be a good idea for the Compson's Traffic Engineer to answer questions about traffic issues and concerns.

Mr. Mike Agee, Mattern & Craig, told the Commission that he had performed the traffic study requested by the City. He said the main concerns he heard so far were about the cut through traffic and speeds on Melinda and Alta, and added that this study did not address those two issues. He said it would take a fair sized study to get a handle on how much of the actual cut through traffic was caused by Wards Crossing with an origin outside of the neighborhood, or with the destination to the development itself. He explained that the traffic study provided information on the additional amount of traffic that would be generated by the development on that section of Wards Ferry that went by the intersection of Melinda Drive, and the effects on the intersection of Melinda Drive from the increase of traffic and the installation of the signal. Mr. Agee said that the developer and Mattern & Craig had offered to work with the City and the neighborhood to see if there was an equitable solution that could help the situation for the concerns of speed and cut throughs.

Mr. Gerry Harter, City Traffic Engineer, addressed the Commission. Mr. Harter explained that he separated the issues concerning this project into two categories: capacity and behavioral issues. He praised Compson Development saying that when the City requested three or four improvements, the petitioner proposed four or five improvements. He added that Compson volunteered to pay for the road improvements related to their development, which included extending the left turn lane, creating a right in, right out for the shopping center, installing dual left turn lanes from Wards Road, and installing a traffic signal. He continued by explaining that Compson had purchased some of the Church property in order to align the entrance into the area with the entrance to Wards Crossing Shopping Center, so that shopping center would benefit from the traffic signal as well. Mr. Harter explained that because of the que traffic might extend over Melinda Drive from time to time, but that could not be controlled.

Mr. Harter talked about the behavioral issues, which were cut through traffic and speeding. He told the Commission that Melinda Drive and Alta Lane were currently being used as cut through routes, which began when the development started along Wards Road. He said it would come back to a bigger issue, which was the direction City Council would take regarding traffic calming and management. He added that this problem needed to be addressed on a more global nature because Melinda Drive was not the only street experiencing these problems. He noted that speed tables were a last resort, but worked the best. However, Mr. Harter concluded, if speed tables were installed on one road, then another road would become the cut through.

Chair Dahlgren asked if there were other means that this might be accomplished on these streets.

Mr. Harter said there were other options. He said since Melinda Drive was an old County Road without curb and gutter, some options would not work at all. He added that the most extreme option would be to close the road between Wards Ferry Road and Leesville Road.

Commissioner Worthington asked if four-way or three-way stop signs would solve the problems.

Mr. Harter said three-way stop signs might work, but he tried to avoid those. He said the manual on Uniform Traffic Control Devices did not recommend three-way stop signs because they were only a quick, cheap fix for a problem. He continued to explain that if the signs were unwarranted, then the effect of the signs would be diminished because people would be stopping over and over again when there were no other cars around.

Chair Dahlgren said he sympathized with the neighbors. However, he added, it was up to the City to look into this situation to see if something could be done to rectify the existing problems with the anticipated impact of a new development. He said the question was how that could be done.

Commissioner Bacon asked which was the lesser of the evils - - the "T" stop sign, the three-way stop sign, or the humps. She said she assumed the stop signs would be the cheapest, but which would work better.

Mr. Harter said the speed tables would be the best way to control speeds; but only to control speeds. He said they did have drawbacks for fire and EMS vehicles, as well as for snowplows. He said the topography in Lynchburg made it very difficult to place the speed tables in the best locations, and continued by explaining that there would probably be between 10-20 tables placed between Melinda Drive and Alta Lane.

Chair Dahlgren asked if the City wanted to address that issue, would there be a way to do that?

Mr. Martin said the only way to assure that something would be done was with proffers. He said speed tables might not be the ultimate solution until Mr. Harter had an opportunity to look at the situation, and at this point, he added, speed tables were not actually being recommended.

Chair Dahlgren said he did not think a proffer was necessary from the developer. He said it would be up to the City to protect its citizens on that street and do whatever study was necessary, possibly after the shopping center was constructed, to come up with a solution.

Mr. Martin said part of the issue was that land use laws in Virginia limited encouraging off-site improvements that were not directly adjacent to the development.

Commissioner Pulliam said they were dealing with a City issue that was affecting Campbell County.

Mr. Falwell told the Commission that in the interest of helping solve the problem, Mr. Comparato offered to contribute \$10,000 to whatever solution the City came up, and was willing to proffer that today.

Mr. Curling asked about the proffer concerning the property the church owned.

Mr. Falwell read the revised proffer concerning the property owned by Covenant Presbyterian Church. It read as follows:

"No commercial entrance or other commercial access from the proposed shopping center shall be established onto Melinda Drive. Compson Development, L.C. shall grant an access easement over and across the shopping center property to Covenant Presbyterian Church for access to and from Wards Ferry Road."

Chair Dahlgren said they wanted to finish the question and answer period, but he was leaning very strongly against a postponement of this issue. He said he was not sure that the City of Lynchburg should have been asked to make a decision on this proposal before Campbell County made their decision.

Mr. Falwell said Campbell County took that same position and postponed their decision as a courtesy to the City. He said the County Administrator, Mr. David Laurell, explained that the City deserved the right to look at the petition and comment on it before the County voted on October 18.

Commission Bacon said the City's position was supplemental to the County's position. She said the County had a larger issue and the City's issue was only to get them better access to the site.

Chair Dahlgren said they were willing to listen to everything that was going here, and added that a lot of it looked very good.

Commissioner Echols said when this many people oppose something, then the City needed to listen to them. He added that the petition really shocked him when he saw so many names, so this project needed to be studied very carefully before a vote was taken.

Commissioner Pulliam asked what type of retailer would not move to an area unless other stores were already located there.

Mr. Falwell said regional retailers were looking at the whole Lynchburg market, which was made up of 250,000 customers. He explained that retailers did not want to go into an area unless it was easily accessible to the whole metropolitan area. He said all of the major retailers wanted to be in the same area, and this was the only location in the area that was easily accessible to all four counties.

Commissioner Bacon noted that Mr. Langley's issue concerning looking at the back and side of the shopping center from his apartments had not been addressed, nor had the ten-foot wall.

Mr. Falwell said Mr. Langley's concerns had been addressed in the County proffers, which stated:

"The screening wall and fence along the common boundary line of the shopping center and the property owned by Covenant Presbyterian Church shall be designed and built to the specifications agreed upon by the developer and the church or to specifications now required by Section 22.13-B1 in the County Code."

He explained that if the Church and the developer could not agree on a wall, then the wall had to be built according to the County Code, which would minimally be a five feet high, three feet wide masonry wall. He said the proposed wall would hide a dumpster due to the slope from the church property down to the shopping center. He said actually the wall would block the view of the top of the buildings, and the topography would block the view of the dumpsters.

After discussion, Commissioner Flint made the following motion, which was seconded by Commissioner Echols and passed by the following vote:

“That the Planning Commission recommends that voting on this petition be postponed until a work session is held on October 27 in order to clear up some concerns and have questions answered”

AYES:	Bacon, Dahlgren, Echols, Flint, Pulliam, Worthington	6
NOES:		0
ABSTENTIONS:		0

MINUTES FROM THE OCTOBER 27 PLANNING COMMISSION WILL BE ADDED LATER

Motions from the October 27 meeting:

After discussion, Commissioner Flint made the following motion, which was seconded by Commissioner Echols and passed by the following vote:

“That the Planning Commission waives the twenty-one (21) day submittal requirements for proffers.”

AYES:	Bacon, Dahlgren, Echols, Flint, Hamilton, Worthington	6
NOES:		0
ABSTENTIONS:		0

After discussion, Commissioner Echols made the following motion, which was seconded by Commissioner Flint and passed by the following vote:

“Based on the preceding Findings of Fact, the Planning Commission recommends approval of the rezoning of one and three tenths (1.3) acres at 108 Melinda Drive and Wards Road from R-4, Multi-Family Residential District to B-3, Community Business District (Conditional) with the voluntarily submitted proffers.”

AYES:	Bacon, Dahlgren, Echols, Flint, Hamilton, Worthington	6
NOES:		0
ABSTENTIONS:		0